



09/708581

COX

PATENT  
Attorney Docket No.: CARD-1002US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Ronald S. Vladyka Jr. )  
Application Serial No.: )  
09/708,581 )

Group Art Unit: 1623  
Examiner: Everett White

Patent No.: 6,858,725 B1

Filed: November 9, 2000

Title: Microcrystalline Cellulose  
Cushioning Granules

Certificate  
JUL 06 2005  
of Correction

Mail Stop Post Issue  
Honorable Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR CERTIFICATE OF CORRECTION OF APPLICANT'S MISTAKE**

Sir:

A Certificate of Correction is requested for the above listed issued patent.

Accompanying the request is the fee set forth in 37 CFR § 1.20(a).

**CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8**

I certify that this document, along with any document referred to as being attached, is being deposited with the U.S. Postal Service as first class mail on June 29, 2005, under 37 C.F.R. § 1.8 and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

ICIS C. Rousey  
Name of person signing document

ICIS C. Rousey  
Signature of person signing document

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JUL 07 2005

**Certificate of Correction**

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At Col. 1, line 3, of the published patent please insert the following:

**--RELATED APPLICATION DATA**

This application claims the benefit of U.S. Provisional Patent Application No. 60/165,121, filed November 12, 1999, under 35 U.S.C. §119(e).--

### **REMARKS**

This request for a certificate of correction is made pursuant to 35 U.S.C. §255 and 37 CFR §1.323 to correct the claim to benefit under 35 U.S.C. §119(e). Since the application that resulted in the present U.S. Patent No. 6,858,725, was filed prior to November 29, 2000, it is permitted to correct the claim to benefit under 35 U.S.C. §119(e) pursuant to MPEP §1481. Correction is permissible since all requirements set forth in 37 CFR §1.78(a)(3) were met in the application. The mistake made is clerical in nature and involves the failure of the Applicant to insert the proper reference to the provisional application at the beginning of the patent specification. That this mistake was an unintentional clerical error is confirmed by the fact that the declaration for patent application for the present application submitted on November 9, 2000, stated that the inventor claimed the benefit of U.S. Provisional patent application no. 60/165,121, filed on November 12, 1999, on page 2 of that declaration.

The correction does not involve a change that would constitute new matter.

#### **I. Basis for the Request for Certificate of Correction**

In the present case, the applicant inadvertently failed to include in the first sentence of the specification, a specific reference to an earlier-filed, co-pending provisional application as was required by 37 C.F.R. §1.78 (a)(2) and (a)(4) in effect at the time of this application, in order to perfect a claim for benefit under 35 U.S.C. §119(e). The earlier-filed, co-pending application to which the present patent is entitled to claim benefit is U.S. provisional patent application no. 60/165,121, filed on November 12, 1999.

According to MPEP §1481, a Certificate of Correction can be used in applications filed prior to November 29, 2000, to correct:

- (A) the failure to make reference to a prior copending application pursuant to 37 CFR 1.78(a)(2) and (a)(4); or
- (B) an incorrect reference to a prior copending application pursuant to 37 CFR 1.78(a)(2) and (a)(4).

In the present case, the patent application that resulted in issuance of U.S. patent no. 6,858,725 was filed prior to November 29, 2000, and does not contain a reference to the earlier filed provisional patent application at the beginning of the specification, as required by 37 CFR 1.78(a)(2) and (a)(4) and thus correction via a Certificate of Correction may be used.

## **II. The Claim to Benefit Under 35 U.S.C. §119(e)**

According to MPEP §1481, the following requirements have to be met to employ a Certificate of Correction to correct a priority claim under 35 U.S.C. §119(e):

- (A) for 35 U.S.C.119(e) priority, all requirements set forth in 37 CFR 1.78(a)(3) must have been met in the application which became the patent to be corrected; and
- (B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate. See MPEP § 201.11 for requirements under 35 U.S.C.119(e) and 120.

### **A. All Requirements of 37 C.F.R. 1.78(a)(3) Are Met**

37 C.F.R. §1.78(a)(3), as it was in force prior to November 29, 2000, for the patent's application, reads as follows:

“A nonprovisional application other than for a design patent may claim an invention disclosed in one or more prior filed copending provisional applications. In order for a nonprovisional application to claim the benefit of one or more prior filed copending provisional applications, each prior provisional application must name as an inventor at least one inventor named in the later filed nonprovisional application and disclose the named inventor's invention claimed in at least one claim of the later filed nonprovisional application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior provisional application must be entitled to a filing date as set forth in § 1.53(c), have any required English-language translation filed therein within the time period set forth in § 1.52(d), and have paid therein the basic filing fee set forth in § 1.16(k) within the time period set forth in § 1.53(g).”

This patent application met the requirements for obtaining the benefit of the filing date of the earlier-filed U.S. Provisional Patent Application No. 60/165,121, as required by 37 CFR 1.78(a)(3). The provisional patent application was co-pending with the present patent application since the provisional patent application was filed on November 12, 1999; and the present patent application was filed on November 11, 2000.

Also, the present patent has the same inventor as the provisional patent application, namely, Ronald S. Vladyka Jr. Disclosure of the subject matter of at least claim 1 of the present U.S. Patent No. 6,858,725 in a manner which satisfies the first paragraph of 35 U.S.C. §112, can be found in the provisional application at pages 2-13.

Moreover, the provisional application was entitled to a filing date as set forth in 37 C.F.R. § 1.53(c), was in English, and the basic filing fee set forth in 37 C.F.R. § 1.16(k) was paid within the time period set forth in 37 C.F.R. § 1.53(g).

**B. The Record of the Patent and the Patent Application Clearly Shows that Priority is Appropriate.**

It is also clear from the record of the parent applications that priority is appropriate since the requirements for priority under 35 U.S.C. §119(e), except for the correction sought by this request for Certificate of Correction, as set forth in detail in MPEP §201.11, have been met. According to MPEP §201.11, there are four requirements for receiving the benefit of an earlier filing date under 35 U.S.C. §119(e) in an application filed prior to November 29, 2000. These four requirements are addressed below.

**1. The Invention Must be Disclosed in the Prior Application in a Manner Which Satisfies the First Paragraph of 35 U.S.C. §112**

As discussed above, the subject matter of at least claim 1 of U.S. Patent No. 6,858,725 is disclosed in the prior U.S. provisional patent application in a manner which satisfies the first paragraph of 35 U.S.C. §112, at pages 2-13 of the provisional patent application.

**2. Copendency With an Application Similarly Entitled to Claim Benefit**

As discussed above, the provisional application was filed on November 12, 1999; U.S. Patent No. 6,858,725 was filed on November 11, 2000, and therefore they were co-pending.

**3. The Application Must Contain a Specific Reference to the Earlier Application**

U.S. Patent No. 6,858,725 fails to include a specific reference to the earlier application. This Certificate of Correction is intended to address this issue.

It is submitted that the failure to include a reference to the provisional application in the application was an unintentional mistake and it is earnestly requested that the Certificate of Correction be accepted in order to correct this mistake. That this mistake was unintentional is confirmed by the fact that the declaration for patent application for the present application submitted on November 9, 2000, stated that the inventor claimed the benefit of U.S. Provisional patent application no. 60/165,121, filed on November 12, 1999, on page 2 of that declaration.

**4. The Later-Filed Application Must be Filed by an Inventor Named in the Previously Filed Application**

As discussed above, Ronald S. Vladyka Jr. is the named inventor for both the provisional patent application and the present issued U.S. patent no. 6,858,725.

Accordingly, for the foregoing reasons, it is considered that correction of the above-identified application to insert a reference to U.S. Provisional Patent Application No. 60/165,121 in the first paragraph of the specification, in order to perfect the claim to benefit under 35 U.S.C. §119(e), is appropriate.

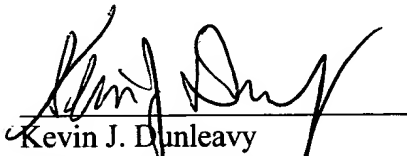
Issuance of a Certificate of Correction is requested.

**III. Conclusion**

If it is felt that a telephone interview would expedite correction of this patent, feel free to telephone the undersigned at 215-599-0600.

Respectfully submitted,

Date: 6/29/2005

  
Kevin J. Dunleavy  
Registration No. 32,074

KNOBLE YOSHIDA & DUNLEAVY, LLC  
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1628 John F. Kennedy Boulevard  
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(215) 599-0600  
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# UNITED STATES PATENT AND TRADEMARK OFFICE

## CERTIFICATE OF CORRECTION

PATENT NO : 6,858,725 *B1*

DATED : February 22, 2005

INVENTOR(S) : Ronald S. VLADYKA Jr.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At Col. 1, line 3, of the published patent please insert the following:

**—RELATED APPLICATION DATA**

This application claims the benefit of U.S. Provisional Patent Application No. 60/165,121, filed November 12, 1999, under 35 U.S.C. sec. 119(e).—

MAILING ADDRESS OF SENDER: Kevin J. Dunleavy, Reg. No.: 32,024  
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PATENT NO. 6,858,725

No. of additional copies

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Eight Penn Center, Suite 1350  
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Philadelphia, PA 19103

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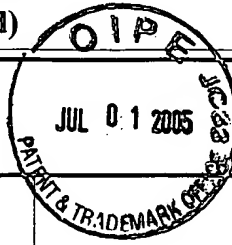
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JUL 07 2005

TRANSMITTAL LETTER  
(General - Patent Issued)

Docket No.  
CARD-1002US

Patentee(s): Ronald S. VLADYKA Jr.



U.S. Patent No.

6,858,725 B1

Issue Date

February 22, 2005

Title: MICROCRYSTALLINE CELLULOSE CUSHIONING GRANULES

COMMISSIONER FOR PATENTS:

Transmitted herewith is:

- 1) A Request for Certificate of Correction of Applicant's Mistake
- 2) Form PTO-1050 in trip.

- ☐ No additional fee is required.
- ☒ A check in the amount of \$100.00 is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account 50-0462 as described below.
- ☐ Charge the amount of
- ☒ Credit any overpayment.
- ☒ Charge any additional fee required.
- ☐ Payment by credit card. Form PTO-2038 is attached.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

Signature

Kevin J. Dunleavy  
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1628 John F. Kennedy Blvd  
Philadelphia, PA 19103  
215-599-0600

Customer No.: 21,302

cc:

Dated: June 29, 2005

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

June 29, 2005

(Date)

Signature of Person Mailing Correspondence

Iris C. Rousey

Typed or Printed Name of Person Mailing Correspondence

JUL 07 2005